

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No.172 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

and

HON'BLE MR.JUSTICE D.A.MEHTA Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

COMMISSIONER OF INCOME-TAX

Versus

ELECON ENGINEERING CO. LTD.

Appearance:

1. INCOME TAX REFERENCE No. 172 of 1992
MR MANISH R BHATT for Petitioner No. 1
MR RK PATEL for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

and

HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 28/08/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.A.MEHTA)

1. The following question has been referred by the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' under Section 256(1) of the Income Tax Act, 1961, at the instance of the Commissioner of Income Tax :

"Whether the Appellate Tribunal is right in law and on facts in deleting the notional interest charged by the Income Tax Officer on the interest free loans given by the assessee company to its wholly owned subsidiary? "

2. Heard Mr.M.R.Bhatt, learned sr. standing counsel on behalf of the applicant - revenue and Mr.B.D.Karia, learned advocate on behalf of the respondent - assessee. It is common ground between the parties that the present reference seems to have been made through inadvertent oversight and it is not required to be answered.

3. In the statement of case dated 31-10-1991 the Tribunal records that both parties before it pointed out that a reference of similar question in the preceding year in Reference Application No.568/Ahd/91 had been made and hence, the present question has been referred. Our attention has been invited to the statement of case dated 25-11-1991 in Reference Application No.568/Ahd/1991 (which is since registered as I.T.R. No.104 of 1992) and it is apparent that question No.1 therein has not been referred but has specifically been rejected as the decision of the Tribunal has proceeded on an appreciation of the relevant facts and material available on record.

4. In the circumstances, there being no reference for the preceding year it is apparent that the present reference has been made through inadvertent omission. We, therefore, decline to answer the question referred to us.

5. The reference stands disposed of as unanswered with no order as to costs.

Sd/- Sd/-

[D.H.WAGHELA, J] [D.A.MEHTA, J]

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'Bhavesh'